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FISCAL IMPACT REPORT

SPONSOR Lundstrum DATE TYPED 3/07/05 HB HJM 57

SHORT TITLE Local Telecommuincation Company Funding SB _____

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 776, SB 218

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Joint Memorial 57 makes a number of findings related to telecommunications accessibility and development for Navajo households and requests the PRC to consider the use of state rural universal service funds to support the first year of a successor telecommunications company that is established to serve high-cost tribal communities as an incumbent provider of basic local exchange services.

Significant Issues

According to the findings establishes in the resolution, in excess of 60% of Navajo households do not have access to the most basic telecommunications service due to the high cost of copper and fiber optic systems in remote areas as well as difficulties acquiring right-of-way permits. A New Mexico-based telecommunications company, Sacred Wind Communications, is negotiating acquisition of other telecommunications companies' facilities and customers on the Navajo Na-

tion reservation and federal bureau of Indian Affairs allotment lands. This company has designed fixed wireless local loop radio systems to reach hundreds more Navajo homes.

The federal communications commission (FCC) makes universal service funding available for rural telecommunications companies by requires that the a recipient company be operational for one year before being eligible for funding. The New Mexico successor company that will serve the Navajo people will not have the resources to operate at a loss for a year.

The resolution's findings continue that the PRC manages a state rural universal service fund, the purpose of which is to "maintain and support at affordable rates those public telecommunications services as are determined by the commission." The fund as not been used by any rural telecommunications carrier for over 12 years and holds a balance of over \$2 million. The resolution finds that the rural universal service fund can be used to cover in part the high operational costs of the Sacred Wind Communications until it received FCC support after its first year.

The PRC raises some concern regarding this resolution, writing:

"Sacred Wind Communications has not yet applied for a certificate of public convenience and necessity as an incumbent provider of basic local exchange services. During that proceeding, Sacred Wind must prove that it is technically and financially competent to provide telecommunications services. This may be a problem because one of the whereas in this Memorial states that Sacred Wind "will not have the resources to operate at a loss and pay salaries for one year when its costs of service far exceed its income for low-income families." After Sacred Wind has been certificated, and to the extent that it is Qwest territory on Navajo land that is being transferred to Sacred Wind, Qwest and Sacred Wind must file a joint application to the Commission to approve that transfer, at which time the Commission may impose conditions on that transfer. Only then is it possible for the Commission to consider Sacred Wind an incumbent telecommunications carrier and a "successor" telecommunications company for purposes of transferring money to them.

"Pursuant to the statutory mandate in the Rural Telecommunications Act to manage the state rural universal service fund to "maintain and support at affordable rates those public telecommunications services as are determined by the commission", the Commission issued rules and had a proceeding to determine which services and companies should be supported by the fund. Neither the current rules (Case No. 3111) nor the record in the past proceeding (Case No. 3223) would allow the use of the fund as proposed in this memorial.

"Qwest is the ILEC that is responsible for providing telecommunications service on this portion of the Navajo territory. Qwest has 330 "held orders" for primary service, most of them held pending the time-consuming and difficult process of acquiring right-of-way permits on tribal and federal Bureau of Indian Affairs lands. It is our understanding that Sacred Wind would provide telecommunications service through a fixed wireless technology. This technology could avoid some of the right-of-way problems that Qwest experiences in trying to provide wireline service. However, there is nothing that precludes Qwest from currently providing the service through a fixed wireless technology and the use of Rural Extension Funds.

"The State Universal Service Fund existed long before the Rural Telecommunications Act was enacted. It was created in 1987 and was imposed through a surcharge on all of the tele-

communications customers in the state in order to prevent unreasonable increases in local exchange rates of rural carriers as they moved closer to charging cost-based rates. Although the fund has not been utilized recently, it was available for Commission disbursement under the Rural Telecommunications Act – the Commission found that rural carriers had not demonstrated sufficient need. However, there are two bills in this current session (HB 776 and SB218a) that propose to utilize this \$2 million in the Fund to lower intrastate access rates.

“Smith Bagley received an ETC designation by this Commission for all of Qwest’s Navajo territory to offer mobile wireless service. It may be inappropriate for the Commission to take money raised from all of the ratepayers in the state (SRUSF) to finance one particular company such as Sacred Wind, to the disadvantage of other competitors such as Smith Bagley.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 776 and Senate Bill 218 would amend the current State Universal Service Fund statute for the purpose of reducing “intrastate switched access charges to interstate switched access charge levels in a revenue-neutral manner.”

POSSIBLE QUESTIONS

Does this resolution propose to favor one private company over its potential competitors?

EF/lg